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3 UNITED STATES DISTRICT COURT
4 DISTRICT OF NEVADA

5 * * *

6 MANETIRONY CLERVRAIN,

7 Plaintiff,

8 v.

9 STEVE SISOLAK,

10 Defendant.
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Case No. 2:21-cv-00011-GMN-DJA

REPORT AND RECOMMENDATION

12 This matter is before the Court on pro se prisoner Plaintiff Manetirony Clervrain's
13 application to proceed *in forma pauperis* pursuant to 28 U.S.C. § 1915 (ECF No. 1) and
14 Complaint (ECF No. 1-1), filed on January 5, 2021.

15 Preliminarily, the Court finds that Plaintiff's application is incomplete. The long form
16 was submitted rather than the application to proceed in forma pauperis by an inmate. As a result,
17 the Court cannot determine whether Plaintiff is eligible to proceed in forma pauperis. However,
18 given the fatal flaws in the complaint, the Court will recommend that his application be denied as
19 moot.

20 Plaintiff is currently an inmate in the custody of the Moore Detention Center in
21 Okmulgee, Oklahoma. The only defendant named is Steve Sisolak, but Plaintiff's complaint is
22 largely incomprehensible and has no connection to the state of Nevada. 18 U.S.C. § 1915(d)
23 gives the court the power to dismiss "claims whose factual contentions are clearly baseless."
24 *Neitzke v. Williams*, 490 U.S. 319, 327-28 (1989). Plaintiff has failed to state any sort of
25 cognizable claim, or even any claim at all. The Court cannot decipher any logical set of facts in
26 his submission, or any rights that may have been violated. As such, the Court therefore concludes
27 that this case is frivolous because it lacks an arguable basis in law and fact. *See Neitzke*, 490 U.S.
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1 at 325. As Plaintiff's complaint is factually frivolous and does not set forth a plausible claim, it
2 should be dismissed without leave to amend as it is apparent that amendment is futile.

3 **RECOMMENDATION**

4 For the foregoing reasons, IT IS HEREBY RECOMMENDED that this case be
5 **DISMISSED** and that Plaintiff's application to proceed *in forma pauperis* be **DENIED** as moot.

6 **NOTICE**

7 Pursuant to Local Rule IB 3-2 any objection to this Report and Recommendation must be
8 in writing and filed with the Clerk of the Court within 14 days of service of this document. The
9 Supreme Court has held that the courts of appeal may determine that an appeal has been waived
10 due to the failure to file objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142
11 (1985). This circuit has also held that (1) failure to file objections within the specified time and
12 (2) failure to properly address and brief the objectionable issues waives the right to appeal the
13 District Court's order and/or appeal factual issues from the order of the District Court. *Martinez*
14 *v. Ylst*, 951 F.2d 1153, 1157 (9th Cir. 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452,
15 454 (9th Cir. 1983).

16 DATED: January 27, 2021



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18 DANIEL J. ALBREGTS
19 UNITED STATES MAGISTRATE JUDGE
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